

Executive

10 September 2015

Addendum

Items 10 & 13: Urgent Business - Court Lodge Residential Development, Horley

Following the agreement of the Chairman of the Overview and Scrutiny Committee and the Leader of the Council, the Executive will consider an item of urgent business at this meeting in relation to the proposed Court Lodge residential development in Horley.

This report is considered in two parts, Part 1 (Item 10) and Part 2 (Item 13). Both reports are attached.

The urgency reasons are as follows:

At its meeting on 27 February 2014 the Executive authorised the Deputy Chief Executive, in consultation with the Executive Member for Property and Regeneration, to “enter into a construction contract with the successful contractor to complete the development subject to the tendered construction cost not exceeding the budget as detailed in the part 2 report to the Executive”.

The tender exercise has now been completed and because of the prevailing market conditions, the tenders are in excess of the authorised budget. The matter must therefore be referred back to the Executive.

The Executive is requested to consider this matter urgently so that it can make a recommendation to Full Council on 1 October 2015.

This is because the tenders are only valid for 90 days and the next Council meeting is not until 17 December 2015. Failure to consider the tenders within the deadline may lead to further increases in cost and will also mean that that the agreed timetable for development of this important residential site is not adhered to.



REPORT OF:	HEAD OF PROPERTY SERVICES
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TO:	EXECUTIVE
DATE:	10 September 2015
EXECUTIVE MEMBER:	COUNCILLOR NATALIE BRAMHALL

KEY DECISION REQUIRED:	YES
WARD (S) AFFECTED:	HORLEY CENTRAL

SUBJECT:	COURT LODGE RESIDENTIAL DEVELOPMENT, HORLEY
RECOMMENDATIONS:	
<p>(i) The Head of Property Services be authorised in consultation with the Executive Member for Property and Regeneration to enter into a construction contract with the selected contractor to build 19 two and three bedroom houses on the Council owned land in Court Lodge Road, Horley (as shown in Annex 1), subject to the construction cost not exceeding the budget envelope detailed in Part 2 of this report;</p> <p>(ii) The Head of Property Services be authorised in consultation with the Executive Member for Property and Regeneration to make the necessary professional consultancy appointments to complete the construction project, subject to all costs associated with the project not exceeding the budget envelope set out in Part 2 of this report;</p> <p>(iii) The Head of Property Services be authorised in consultation with the Executive Member for Property and Regeneration to agree the plots sale scheme and individual transfer terms and subsequently enter into individual contracts for the sale of the constructed properties as private market housing, subject to overall sale values being within the values set out in Part 2 of this report;</p> <p>(iv) Authorisation be given to revise the capital programme to provide the necessary additional funding for this development as set out in Part 2 of this report.</p>	

REASONS FOR RECOMMENDATIONS:

The Council has undertaken a strategic procurement exercise and has now received construction tenders from selected contractors resulting in the recommendations contained in this report.

Proceeding with the recommended option will provide the greatest capital receipt for the Council for this land holding.

The development of this site for market housing is considered to contain known and manageable development risks and an excellent development opportunity for the Council to maximise its assets.

EXECUTIVE SUMMARY:

Executive Approval was obtained in February 2014 to develop the site for market housing and make the relevant professional appointments to submit a revised planning application and tender a construction contract for the development of residential dwellings on the Council owned site in Court Lodge Road.

A Professional team was appointed in autumn 2014 to enable a revised planning application to be submitted for 19 residential units, monitor and report the changes in sales values and construction costs and prepare documentation for a construction contract to be tendered.

Planning approval for the increased number of dwellings was obtained in June 2015. The tendering of the construction also commenced in June 2015. Following submission of Prequalification Questionnaires by interested parties, 6 contractors were invited to submit tenders, 5 returned tenders by the submission date in August 2015.

Tenders have been analysed by the project team and this process has identified a preferred contractor, in terms of a compliant bid which will enable a financially viable development.

As expected both construction costs and sales values have increased since the Executive approval in February 2014. Sales value growth has exceeded construction cost increases, producing a greater predicted profit for the Council than reported in 2014. It is still considered development risk for this site is small and outweighed by the additional capital receipt anticipated by development and sale.

Executive has authority to approve recommendations (i) – (iii). Recommendation (iv) is subject to Full Council approval.

STATUTORY POWERS

1. The Council has no statutory obligation to undertake this work but has general powers of competence under Section 1 Localism Act 2011 to undertake any activity which an individual with full capacity may undertake. This includes improving service provision and the quality of life in identified regeneration areas by developing the Council's own land.

2. The Council has the power to dispose of the developed plots in the site under section 123 of the Local Government Act 1972 which places a duty on Local Authorities to dispose of land for best consideration, except in specific circumstances or with the consent of the Secretary of State.

BACKGROUND

3. In-principle Executive approval was obtained in February 2014 to 1) develop the site for market housing 2) make the relevant professional appointments to submit a revised planning application and 3) tender a construction contract for the development of residential dwellings on the Council owned site in Court Lodge Road.
4. A Professional team was appointed in the autumn 2014 to 1) enable a revised planning application to be submitted for 19 residential units 2) prepare documentation for a construction contract to be tendered and 3) to monitor and report on changes in sales values and construction costs.
5. Planning approval for the increased number of dwellings was obtained in June 2015. The tendering of the construction contract also commenced in June 2015. Following submission of Prequalification Questionnaires by interested parties, 6 contractors were invited to submit tenders, and 5 returned tenders by the submission date in August 2015. Tenders have been analysed by the project team, and this process has identified a preferred contractor, in terms of a compliant bid and a fixed price tender that will enable a financially viable development.

ISSUES

6. Both construction costs and sales values have increased since the Executive approval in February 2014. Sales value growth has exceeded construction cost increases, so whilst additional capital investment will be needed upfront to allow development of this scheme, the overall profit derived from the development will exceed that predicted in 2014.
7. When the site was fully marketed in 2012, there was limited interest from commercial/private house builders due to perceived site constraints and a large number of alternative sites being available to private house builders. In 2014 an off market offer was received for the site, which may suggest a greater level of interest if the site was re-marketed.
8. If the Council develops the site itself this is forecast to provide a greater financial return than a straight forward land sale. Financial information is shown in the confidential Part 2 of this report.
9. The development risk for this site is considered small and outweighed by the additional capital receipt anticipated by development and sale.

URGENCY

10. At its meeting on 27 February 2014 the Executive authorised the Deputy Chief Executive, in consultation with the Executive Member for Property and Regeneration, to *“enter into a construction contract with the successful contractor to complete the development subject to the tendered construction cost not exceeding the budget as detailed in the part 2 report to the Executive”*.

11. The tender exercise has now been completed and because of the prevailing market conditions, the tenders are in excess of the authorised budget. The matter must therefore be referred back to the Executive.
12. The Executive is requested to consider this matter urgently so that it can make a recommendation to Full Council on 1 October 2015. This is because the tenders are only valid for 90 days and the next Council meeting is not until 17 December 2015.
13. Failure to consider the tenders within the deadline may lead to further increases in cost and will also mean that that the agreed timetable for development of this important residential site is not adhered to.
14. Key decisions to be considered by the Executive are required to be included in a 28 Day Notice indicating the business that is to be transacted in public and private meetings of the Executive. As this matter was not included on the published 28 Day Notices or the 5 Day notices for both public and private business at this meeting of the Executive, the Chairman of the Overview and Scrutiny Committee has been consulted as required by regulations and has agreed to this item being considered as an urgent item.
15. Therefore, following consultation with the Leader of the Council this item of business has been added to the Executive's agenda for this meeting.

RISK MANAGEMENT

16. There are commercial risks associated with this project, these relate to development and market risks. However, Officers have undertaken a considerable amount of due diligence prior to recommending the development option within section 20 (a) of this report. The development risk for this site is considered small and outweighed by the additional capital receipt anticipated.
17. It is generally accepted that the economy and house prices particularly in the South East continue to move in an upward direction. Demand for housing continues to outstrip availability. House prices are forecast to continue growing during the remainder of 2015/2016, hence this could generate a further increase in the overall development profit of the site. Property Agents consulted remain confident the houses could be sold 'off plan' prior to completion of the construction works.
18. Once the Council has entered into a construction contract, build costs are fixed and the Council is therefore not at risk from increased construction costs being incurred during the construction period.
19. Ground condition survey results indicate there is nothing unusual within the ground make up that would require remedial work and/or have an adverse impact on construction costs. All pre construction survey work has been completed the site is ready for construction to commence.

OPTIONS

20. There are 3 options for the development of this site.
 - a) The Council develop the site in accordance with the current approved scheme, which has planning consent, fixed and tendered construction costs, together with predicted sales values produced by a local property agent all of which identify the likely profit from self-development of the site. **This is the recommended option.**

- b) The site is re-marketed for disposal with the benefit of full planning permission and site surveys. This option is not recommended as the Council will achieve a greater financial receipt by taking the considered development risks associated with this project.
- c) Do nothing; this is not a recommended option as there is no benefit to the Council in doing so.

NEXT STEPS

- 21. If option (a) above is approved, Full Council approval will be sought for amendment to the capital programme to fund the additional budget needed due to the rise in construction costs.
- 22. If budget approval is obtained a construction contract will be entered into with the selected contractor and solicitors will be instructed to complete legal documentation.
- 23. A local sales agent will be formally instructed to commence marketing of the units, with the aim of securing sales of the houses 'off plan' prior to the completion of the construction.

LEGAL IMPLICATIONS

- 24. The Council has general powers of competence under Section 1 Localism Act 2011 to undertake any activity which an individual with full capacity may undertake. This includes improving service provision and the quality of life in identified regeneration areas by developing the Council's own land.
- 25. However, the Council must show that its commercial activity would benefit its area and the residents, and that the profit generated by such an activity is only ancillary to the general benefit to the residents. If profit is the main driver, then a special purpose company must be created for that purpose.
- 26. The scheme in this case would clearly generate direct economic and social benefits to the Borough by providing additional housing for residents to buy (or rent) and creating local jobs. The profit the Council would generate is therefore ancillary, which means that the Council has the capacity to develop the land itself.
- 27. S123 of the Local Government Act 1972 requires Local Authorities to seek best consideration when disposing of land. The Council has met the requirements of S123 ensuring best value is achieved via the 2012 marketing process and detailed research into sales values and construction costs.

FINANCIAL IMPLICATIONS

- 28. Details of the financial appraisal and offers are set out in the Part 2 report.

EQUALITIES IMPLICATIONS

- 29. There are no equalities implications arising from this transaction.

OTHER IMPLICATIONS

- 30. There are none.

CONSULTATION

31. Executive Members have been consulted on the proposals both formally and informally.
32. The Monitoring Officer and Chief Finance Officer have been consulted on the contents of this report.

POLICY FRAMEWORK

33. The recommended option complies with the Council's financial priority to optimise its finances as set out in our Financial Strategy.

Background Papers:

None.

Court Lodge Housing, Site Layout



